

App. No. 10/090,911
Atty. Docket No. 8449M
Amdt. dated August 28, 2006
Reply to Office Action of November 28, 2005
Customer No. 27752

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REMARKS

Claim Status

Claims 24, 30 – 58 are now pending. The support for new claim 58 is found on page 33, lines 14-34.

CLAIM REJECTION UNDER 35 U.S.C. §103 OVER WO 99/57259 IN VIEW OF US 3,88,391

The claims are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over WO 99/57259 ("WO '259") in view of Merz, US 3,888,391 ("Merz"). Applicant respectfully traverses.

The Office Action suggests that "[i]t would have been obvious at the time that the invention was made to use the composition of the WO in the first rinse bath of a manual rinsing process, because the WO discloses that its compositions are useful for rinsing manually, and Merz discloses a device for dispensing liquid fabric softener in the first rinse cycle.

Applicant respectfully submits that the Office Action attempts to use impermissible hindsight reconstruction to reject the claims at issue. Applicants respectfully submit that one of ordinary skill in the art would not look to dispenser devices in order to develop a method of softening a fabric in a manual rinse process or even when to dispense a material as the suggestion for such a determination is not found in the references. Indeed, the very idea of utilizing the dispenser of Merz, a device for use with automatic laundry machines, with a manual rinse process suggests that only in light of the invention as filed would one think to combine the disclosure of the cited references – the very essence of hindsight reconstruction. The Office Action, in the relevant part, states at page 3, line 11 *et seq.*, that Merz discloses a dispenser for use in automatic washing machines which is actuated in the first spin following the wash cycle. There is no additional suggestion provided for utilizing this device in a manual process. Moreover, WO '259 does not provide suggestion for utilizing a dispensing device as disclosed in Merz. Because the Office Action attempt to

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utilize impermissible hindsight reconstruction, Applicants respectfully request reconsideration and removal of the rejection.

In view of the foregoing, Applicant respectfully submits that rejection is now overcome and requests allowance of the pending claims.

Respectfully submitted,

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